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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,610	07/12/2001	Yvon Buard	BIF114205/US	1296
466	7590	11/12/2003		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER RODRIGUEZ, RUTH C	
			ART UNIT 3677	PAPER NUMBER

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/902,610

Applicant(s)

BUARD, YVON

Examiner

Ruth C Rodriguez

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8, 11, 14-16, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10, 12, 13 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. The finality of the rejection of the last Office action is withdrawn in view of arguments presented by the Applicant containing relevant information.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1- 4, 9, 10, 12, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent Document FR 2 731 496 A1 (FR '496).

FR '496 discloses a device (20) for joining at least two lengths (10) of a trunking adapted to bear against a support surface. The device includes a plate (20). Backs of the trunking base section have substantially plane rear faces adapted to bear against the support surface and opposite top faces (Fig. 1). The plate has a rear surface

adapted to be flush with the rear faces of the backs. The plate has on each of its edges adjacent transverse edges of the trunking base sections rear and top longitudinal tongues (25,26,35,36) respectively adapted to bear on the rear face at the opposite top face of the corresponding back (Fig. 1). The rear tongues (25,35) are substantially flat (Figs. 1 and 2), have a thickness from about 0.2 mm to about 1mm and are accommodated rearwardly beyond the substantially plane rear face to bear elastically against the opposite faces of each panel (Fig. 1).

FR '496 also discloses that:

- There are three longitudinal tongues (25,26,35,36) on each edge of the plate adjacent a transverse edge of a respective one of the trunking base sections (Figs. 1 and 2). The longitudinal tongues are disposed in an arrangement resembling the shape of a winners' podium (Figs. 1 and 2) where two of the three longitudinal tongues are top longitudinal tongues (26,36) spaced from each other and positioned on the top face of the plate so as to bear against the top face of the trunking base sections (Figs. 1 and 2). A central tongue (25,35) located between the two top longitudinal tongues is positioned on the rear face of the plate so as to bear against a rear face of the back of the trunking base section (Figs. 1 and 2).
- The longitudinal tongues have the same thickness (Figs. 1 and 2).
- The plate has two parts with an inside or outside corner between the parts of the plate (Figs. 1 and 2). Each transverse edge of each part of the plate adapted to be placed adjacent a transverse edge of the respective trunking base section is provided with longitudinal tongues (25,26,35,36).

- The trunking base sections have lateral flanges and the tongues are adapted to bear elastically also and the lateral flanges of the trunking base sections (Fig. 1).
- The parts of the plates are articulated together by a junction part forming a hinge (23) (Figs. 1 and 2).
- The plate is molded is of a one-piece plastic construction (Abstract).
- The top tongues are also substantially flat and have a thickness from about 0.2 mm to about 1 mm.

The thickness of each of the longitudinal tongues is approximately 0.5 mm.

***Allowable Subject Matter***

5. Claims 5-8, 11 and 14-16 allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 5, FR '496 discloses a device for connecting two lengths of extrusions. However, FR '496 fails to disclose that the plate is plane with at least two transverse ends. Accordingly, it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have a plane plate with at least two transverse ends.
7. For claim 8, FR ' 496 fails to disclose that the plate carries in a top face pillar with an orifice. Likewise, it would not have been obvious to one having ordinary skill it the

art the time the invention was made to have an orifice located in a top face pillar of the plate that facilitates fixing the plate to a support.

8. Regarding claim 11, FR '496 discloses a device for connecting two lengths of extrusions. However, FR '496 fails to disclose that the two parts of the plates are fixed to each other. Therefore, it would not have been obvious to one having ordinary skill in the art at the time of applicant's invention to have the two parts of the plate being fixed to each other.

9. For claim 14, FR '496 discloses a device for connecting two lengths of extrusions. However, FR '496 fails to disclose that the plate has at least one flat bottom and top tongues extending beyond one of the edges in a plane parallel to the plate where the tongues are spaced apart from each other by a space equal to the thickness of the plate. Likewise, it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one flat bottom tongue and at least one flat top tongue extending beyond one of the edges in a plane parallel to the plate where the bottom tongue and the top tongue are spaced apart from each other by a space equal to the thickness of the plate.

### ***Response to Arguments***

10. Applicant's arguments with respect to claim 1- 4, 9, 10, 12, 13 and 17 have been considered but are moot in view of the new ground(s) of rejection.

11. The Applicant argues that the FR '496 fails to disclose that the substantially plane rear face has to be in contact with the support surface by having the recesses provided to receive the tongues. This argument fails to be persuaded because the claim fails to indicate that the entire substantially plane rear face has to be in contact with the support surface. Therefore, FR '496 meets this limitation because the portions 11 and 12 of the backs will be bear flush with the plate edges and will be contacting the support surface. Additionally, the claim can not be modified to include the limitation that the entire substantially plane rear face can be in contact with the support surface because the rear tongues of the plate will not allow the substantially plane rear face to be adjacent to the support surface.
12. The next argument presented by the Applicant is directed to the change in size rejection made by the Examiner in claims 1, 17 and 18. The Applicant argues that the change in size rejection made by the Examiner is not obvious and proceeds to indicate flaws in the change in size rejection made by the Examiner and provides additional reasons not explicitly included in the specification to substantiate his change in dimension. The Examiner fails to be persuaded by this argument. As part of the arguments presented by Applicant, the Applicant recites "Applicant is aware that in practice, the thickness of the tongues 25 in the device of FR '496 is about 2 mm." In view of the dimensions provided by the applicant for the reference of FR '496, it is considered that FR '496 meets this limitation of the claim that recites "having a thickness from about 0.2 mm to about 1 mm..." When the broadest interpretation is given to "about", this term is considered very broad and could even encompass the

about 2 mm disclosed by the Applicant for the device disclosed by FR' 496 since "about" is defined as around or near and the Applicant does not provide enough information to exclude the thickness of "about 2 mm" of the FR '496 from the range "from about 0.2 mm to about 1 mm..." The same reasoning is applied to claim 4 reciting "the thickness of each of said longitudinal tongues is approximately 0.5 mm." When the broadest interpretation is given to "approximately", this term is considered very broad and could even encompass the about 2 mm disclosed by the Applicant for the device disclosed by FR' 496 since "approximately" is defined as to come near to or close to in value and the Applicant fails to provide enough information to exclude the thickness of "about 2 mm" of the FR '496 from the "approximately 0.5 mm." recited in the claim.

13. Therefore, the rejection of claims 1- 4, 9, 10, 12, 13 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Document FR 2 731 496 A1.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sutter (US 3,352,071), Wendt (US 3,989,398), Macuga et al. (US 4,114,326), Chou (US 5,671,580), Quillin (US 5,966,893) and Desrochers (US 6,408,922 B2) are cited to show state of the art with respect to connectors having at least one edge provided with tongues arranged in a winners' podium configuration.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.

Submissions of your responses by facsimile transmission are encouraged. Technology center 3600's facsimile number for before final communications is (703) 872-9326. Technology center 3600's facsimile number for after final communications is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

RJR  
rcr  
November 10, 2003

  
ROBERT J. SANDY  
PRIMARY EXAMINER